



CALIFORNIA STATE PERSONNEL BOARD

801 Capitol Mall • Sacramento, California 95814 • www.spb.ca.gov

ARNOLD SCHWARZENEGGER, Governor



CALIFORNIA STATE PERSONNEL BOARD MEETING

801 Capitol Mall
Sacramento, California

Public Session Location – 801 Capitol Mall
Sacramento, California, Room 150
Teleconference – 320 West 4th Street
Los Angeles, California, Suite 620

Closed Session Location – 801 Capitol Mall
Sacramento, California, Room 141
Teleconference – 320 West 4th Street
Los Angeles, California Suite 620

SUMMARY MINUTES – JULY 10, 2007

FULL BOARD MEETING MINUTES¹

JULY 10, 2007

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

Sean Harrigan, President
Anne Sheehan, Vice President
Maeley Tom, Member
Patricia Clarey, Member
Richard Costigan, Member

2. REPORT OF THE EXECUTIVE OFFICER – Suzanne M. Ambrose

- The Executive Officer introduced SPB's new chief of the METR Division, Mike Strazzo.
- SSA/GPA classification is on the consent calendar this afternoon. We have successfully completed the development of the new exam process. A pinkie was issued explaining the new process. The new exam will be online this afternoon, assuming the vote passes. The new list will not be available until August 1, 2007.
- We received a lot of feed back from departments on our policy concerning appropriate list usage. A pinkie was issued that now permits the use of more than one list at a time.
- The examination for the HR Modernization CEAs are underway. Final filing date is July 26th or until filled.
- We've hired Human Factors International to help us redesign our website to make it more usable and ensure that it meets state website requirements.
- Department of Technology Services (DTS) has been piloting open Systems Software Specialist II and III exams. They are extremely pleased with the results and are going to share the exam lists with other departments. Now CalPERS has asked us to assist in developing a similar exam for programmers.

¹ The Minutes for the Board Meetings can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

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- Health and Human Services Agency is piloting an open Staff Services Manager I exam. It is going to involve an online application test in August and then a written test in September.
- We will be holding internal SPB staff meetings here to roll out the HR Modernization model.

**3. REPORT OF THE DEPARTMENT OF PERSONNEL ADMINISTRATION (DPA)
– DPA Representatives**

Dave Gilb, Director of the Department of Personnel Administration, thanked the Board for the collaboration and hard work put into successfully developing the newly revised SSA class.

Division Chief, Daryll Tsujihara, gave a brief report on recent activities of the Department of Personnel Administration.

**4. REPORT ON THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS)
– Maeley Tom**

A report was distributed on recent activities of the Public Employees' Retirement System.

5. REPORT OF THE CHIEF COUNSEL – Elise Rose

Litigation:

- Plata v. Schwarzenegger: Federal court issued its order in response to the Receiver's motion to establish 250 Receiver Career Executive Assignment (RCEA) positions. The Court agreed with the SPB that the Receiver's proposal would require waiver of the state Constitutional provision limiting the number of exempt employees as these appointments could be made from outside the civil service and would be in fact "at will."

The Court declined to waive the State Constitution and asked that the Receiver work with the State Personnel Board to find another way to allow the Receiver some flexibility in making the appointments, without the need for a waiver of the constitution. The court also noted that the Receiver had established a need for only 100 out of the 250 appointments requested.

- California Attorneys, Administrative Law Judges and Hearing Officers (CASE) v. State of California: CASE filed a lawsuit that alleges that the compensation State attorneys and administrative law judges receive from the State is so low when compared with their counterparts in local, county, state and federal governments, that it violates California's constitutional civil service mandate and threatens the State's ability to protect its citizens and enforce its laws. A hearing is pending on a request for an alternative writ.

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- Valenzuela v. SPB (CDCR): We have received a decision from the Fourth District Court of Appeal affirming the Imperial county superior court's decision granting a writ in this case involving a correctional officer who was dismissed for testing positive for amphetamines after taking Mexican prescription diet drugs. Court of appeal affirmed trial court decision.
- Department of Mental Health v. SPB(Martinez): The San Luis Obispo Superior Court has issued a decision upholding the SPB's Board Decision (nonprecedential) in this case. The Board reduced the dismissal to a 6-month suspension for a Hospital Police Officer who was sleeping on the job. The court accepted the board's finding that reducing the penalty was supported by several mitigating factors warranted, including appellant's 16 years of service, the fact that the misconduct did not put the public at immediate risk because he was on break, and the fact that his most recent prior adverse action was seven years ago.
- Dimoyannis v. SPB: San Francisco Superior Court granted SPB's demurrer in this case and dismissed the petition for writ of administrative mandate without leave to amend.
- Mosqueda v. SPB: Sacramento Superior Court sustained the Board's action in refusing to provide a name clearing hearing for an employee who had retired based on his belief that his termination was imminent. The Court noted that the petition was also subject to dismissal based on the union's failure to serve the CDCR as a necessary and indispensable party.
- Danny Brown v. SPB: Kern County Superior Court upheld the Board's decision upheld the sustaining dismissal based on use of unnecessary force against an inmate and for dishonesty concerning the incident.

Other:

- SPB has received writ petitions by CCPOA over two late decisions. Staff is investigating status.
- Regarding the Receiver's motion on physician discipline, the Court granted the Board's request for supplemental briefing on the Receiver's proposal and the Board filed its brief on Friday, July 6, 2007, expressing a number of concerns. Some of the concerns expressed by the Board were echoed in briefs from the parties and the physician's union.

6. NEW BUSINESS

NONE PRESENTED

7. REPORT ON LEGISLATION – State Personnel Board Staff

NONE PRESENTED

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8. PUBLIC HEARING – PROPOSED AMENDMENTS TO REGULATIONS CONCERNING PROCEDURES THAT APPLY TO COST SAVINGS PERSONAL SERVICES CONTRACTS UNDER GOVERNMENT CODE SECTION 19130(a)

Persons Participating:

Bruce Monfross, State Personnel Board

Anne Giese, Attorney, SEIU Local 1000

ACTION: SUBMITTED

9. ORAL ARGUMENT

In the matter of **CASE NO. 05-4007EA**. Appeal from denial of discrimination complaint. Outside contractor. Department of Transportation.

Persons Participating:

Debra Brazell, appellant, Outside contractor.

Cheryl D. McNulty, Attorney, Department of Transportation, representing department.

ACTION: SUBMITTED

CLOSED SESSION OF THE STATE PERSONNEL BOARD

10. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing.

[Government Code Sections 11126(d), 18653.]

**CLOSED SESSION OF THE STATE PERSONNEL BOARD PURSUANT TO
COPELY PRESS, INC. v. SUPERIOR COURT (2006) 39 CAL. 4TH 1272**

11. ORAL ARGUMENT

In the matter of **CASE NO. 06-0760A**. Appeal from rejection during probation. Parole Agent I (Adult Parole). Department of Corrections and Rehabilitation.

Persons Participating:

Patrick Barber, Chapter Vice-President, California Correctional Peace Officers Association (CCPOA), representing appellant.

William Byers, Staff Counsel, Department of Corrections and Rehabilitation, representing department.

ACTION: SUBMITTED

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

12. ORAL ARGUMENT

In the matter of **PERSONAL SERVICES CONTRACT NO. 07-01**. Appeal of the Department of the California Highway Patrol (CHP) from the Executive Officer's February 21, 2007, Disapproval of CHP's Personal Services Contracts for Custodial Services at the following offices: Torrance Area Office (RFP 078CP62001); Yolo Area Office (RFP 078CP6159); Burney Area Office (RFP 078CP5634R); Anaheim Area Office (RFP 078CP6171); Los Angeles Area Office (RFP 078CP6167); Monterey Park Area Office (RFP 078CP6170); Oceanside Area Office (RFP 078CP6141); Blythe Area Office (RFP 078CP6139); Santa Ana Area Office (RFP 078CP5905R); and Redwood City Area Office (RFP 078CP6143I)

Persons Participating:

Anne Giese, Attorney, SEIU Local 1000
Barrett McInerney, Labor Relations Counsel, Department of Personnel
Administration, representing California Highway Patrol.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

13. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

14. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (c)(3), and 18653.]
(See Action Taken on Pages 14–20)

15. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial.
[Government Code sections 11126(e)(1) and 18653.]

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Patrick McCollum v. State of California
United States District Court, Northern District of California
Case No. C 04-03339 CRB

Plata, et al. v. Schwarzenegger, et al.
Case No. C01-1351 THE

Colocousis, et al. v. State Personnel Board, et al.
Sacramento Superior Court Case No. 07CS00461

16. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the legislature.
[Government Code section 18653.]

AB 67 (DYMALLY)

This bill is to make technical changes that clarify language and increase the time frame for which SPB is able to grant exemptions to qualifying state agencies. This bill ensures standard assessment of employees' bilingual fluency and enables state agencies that do not substantially serve the public or persons with LEP to be exempted from participation in the language survey and/or implementation plan for up to ten years.

POSITION: SUPPORT

AB 1702 (BLAKESLEE)

This bill would make the current Demonstration Project between SPB and DOT permanent.

POSITION: SUPPORT

AB 1496 (SWANSON)

This bill would establish minimum requirements that must be complied with by a city or county when adopting a personnel merit system or civil service system.

POSITION: NO POSITION

17. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor.
[Government Code section 18653.]

NO ACTION

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

18. DISCUSSION OF UPCOMING BOARD MEETING SCHEDULE OF JULY 24, IN SACRAMENTO, CALIFORNIA

NONE

BOARD ACTIONS:

19. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF JUNE 5, 2007

ACTION: ADOPTED

VOTE: Harrigan, Sheehan, Tom, Clarey, Costigan – Aye

20. EVIDENTIARY CASES

ACTION: See Case Listings on Pages 14–23

21. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION - (See Minutes on Pages 30–31)

ACTION: ADOPTED

VOTE: Harrigan, Sheehan, Tom, Clarey, Costigan – Aye

22. NON-EVIDENTIARY CASES

ACTION: See Case Listings on Pages 24–27

23. NON-HEARING CALENDAR

The following proposals were made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff.

On July 10, 2007, the following proposals were presented to the Board by Mike Strazzo, Chief, Merit Employment and Technical Resources Division, California State Personnel Board.

ACTION: ADOPTED

VOTE: Harrigan, Sheehan, Tom, Clarey, Costigan – Aye

A. BOARD ITEMS PRESENTED BY STATE PERSONNEL BOARD OR DEPARTMENT OF PERSONNEL ADMINISTRATION TO ESTABLISH, REVISE OR ABOLISH CLASSIFICATIONS, ALTERNATE RANGE CRITERIA, ETC.

STAFF SERVICES ANALYST/GOVERNMENTAL PROGRAM ANALYST

The State Personnel Board (SPB) in conjunction with the Department of Personnel Administration (DPA) and the Service Employees International Union (SEIU), Local 1000 propose revisions to the Staff Services Analyst (SSA) (General) class specification, as an alternative to the establishment of the proposed Governmental Program Analyst (GPA), as heard at the April 3, 2007 and May 8, 2007 Board meetings.

CONSTRUCTION FINANCING SERIES

The Office of Statewide Health Planning and Development proposes the following revisions to the existing departmental class series titled Construction Financing: establishment of a new deep class of Health Facility Construction Financing Specialist; adoption of Alternative Range Criteria 453; adoption of proposed twelve month probationary period for two new classes; reallocation of incumbents in the Construction Financing Series to appropriate classes in the Health Facility Construction Series.

- B. ABOLISHMENT OF CLASSES THAT HAVE HAD NO INCUMBENTS FOR MORE THAN TWO YEARS. DEPARTMENTS THAT UTILIZE THE CLASS AS WELL AS THE APPROPRIATE UNION HAVE NO OBJECTION TO THE ABOLISHMENT OF THESE CLASSES.**

THE DEPARTMENT OF PERSONNEL ADMINISTRATION AND STATE PERSONNEL BOARD propose to abolish the following unused classifications, which have been vacant for more than twenty-four months. Departments that utilize the class as well as the appropriate union have no objection to the abolishment of these classes. When classes are proposed to be abolished which are part of a class series, and other classes within the series will continue to be used, the class specification is included in the board item.

NONE

24. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

NONE

25. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Minutes serves to inform interested individuals and departments of proposed and approved CEA position actions.

- A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION**

DEPUTY DIRECTOR, ADMINISTRATION DEPARTMENT

The Board of Equalization proposes to re-allocate the existing CEA allocation of Deputy Director of Administration. The Deputy Director, Administration Department provides consultation and advises the Executive Director and Board Member on program and policy issues with respect to the financial, facility, personnel, planning, and revenue impact to the agency's programs.

CHIEF TECHNOLOGY OFFICER

The Board of Equalization (BOE) proposes to allocate the above position to the CEA category. The Chief Technology Officer provides leadership and guidance for the Board's enterprise IT program operations and serves as a member of BOE's IT Governance Council.

**ASSISTANT CHIEF COUNSEL, ADMINISTRATIVE LITIGATION,
DEPARTMENT OF HEALTH CARE SERVICES**

The Department of Health Care Services proposes to allocate the above position to the CEA category. The Assistant Chief Counsel, Administrative Litigation, is responsible for developing and communicating legal policy and consistently implementing that policy in all administrative litigation cases. Legal policy development, by this position, involves diverse program areas but primarily focuses on the Medi-Cal program, due to its significant size both in program staffing and in the population of 6.8 million people that it serves.

**ASSISTANT CHIEF COUNSEL, CONTRACTS AND PREVENTION,
DEPARTMENT OF PUBLIC HEALTH**

On behalf of the Department of Public Health the Department of Health Care Services proposes to allocate the above position to the CEA category. The Assistant Chief Counsel, Contracts and Prevention, plans, organizes and directs the provision of legal services and policy advice for the California Department of Public Health.

**ASSISTANT CHIEF COUNSEL, LICENSING & ENFORCEMENT AND
ADMINISTRATIVE LITIGATION, DEPARTMENT OF PUBLIC HEALTH**

On behalf of the Department of Public Health, the Department of Health Care Services proposes to allocate the above position to the CEA category. The Assistant Chief Counsel, Licensing and Enforcement and Administrative Litigation, plans, organizes and directs the provision of legal services and policy advice for the California Department of Public Health.

**ADVISOR TO THE DIRECTOR ON SERVICE GOVERNANCE,
DEPARTMENT OF TECHNOLOGY SERVICES (DTS)**

The Department of Technology Services proposes to allocate the above position to the CEA category. The Advisor to the Director on Service Governance develops Statewide Information Technology (IT) governance policies, and advises on complex financial and operational issues, and future service offerings that affect the DTS and customer departments.

CHIEF OF SUPPORT OPERATIONS, CSP SAN QUENTIN, DIVISION OF CORRECTIONAL HEALTH CARE SERVICES, DEPARTMENT OF CORRECTIONS & REHABILITATION

The Department of Corrections and Rehabilitation proposes to allocate the above position to the CEA category. The Chief of Support Operations for the institution medical department will be responsible for policy formulation and implementation to carry out the administrative functions of the Medical Department of California State Prison, San Quentin. The Chief will act as the primary policy advisor to the Health Care Manager and specified areas of the Office of the Receiver.

DEPUTY DISTRICT DIRECTOR, NORTH REGION RIGHT OF WAY, DEPARTMENT OF TRANSPORTATION

The Department of Transportation proposes to allocate the above position to the CEA category. The Deputy District Director, North Region Right of Way develops and implements policies to ensure that all projects are aggressively managed to meet the goals of the department, and that the Right of Way Programs are properly executed, which includes monitoring allocations, encumbrances and expenditures; as well as providing policy development and guidance for the strategic direction of the Program; implementation of programs; and management techniques impacting the goals and objectives of the Right of Way strategic plan.

DEPUTY DISTRICT DIRECTOR, CENTRAL REGION RIGHT OF WAY, DEPARTMENT OF TRANSPORTATION

The Department of Transportation proposes to allocate the above position to the CEA category. The Deputy District Director, Central Region Right of Way develops and implements policies to ensure that all projects are aggressively managed to meet the goals of the department, and that the Right of Way Programs are properly executed, which includes monitoring allocations, encumbrances and expenditures; as well as providing policy development and guidance for the strategic direction of the Program; implementation of programs; and management techniques impacting the goals and objectives of the Right of Way strategic plan.

CHIEF, PLATA SELECTION SERVICES, DEPARTMENT OF CORRECTIONS AND REHABILITATION

On behalf of the Office of the Federal Receiver, the Department of Corrections and Rehabilitation proposes to allocate the above position to the CEA category. The Chief, *Plata* Selection Services, is charged with developing and implementing policy and procedures in the area of selection that is necessary to accomplish the mission of the Receiver by identifying and implementing innovated selection policies and techniques.

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B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS

CHIEF CONSOLIDATION ADMINISTRATOR

CHIEF, CONSOLIDATION TECHNOLOGIST

The Department of Technology's proposal to extend the limited term approval for the above positions to the CEA category through June 30, 2008 has been approved effective May 15, 2007.

ASSISTANT EXECUTIVE OFFICER, OFFICE OF CLIMATE CHANGE

The Air Resources Board's proposal to reallocate the existing CEA allocation titled Program Manager for Motor Vehicle Greenhouse Gas (GHG) Emissions to the above titled position has been approved effective May 18, 2007.

ASSISTANT GENERAL MANAGER, ADMINISTRATION AND MARKETING DIVISION

The Prison Industry Authority's proposal to reallocate the existing CEA allocation titled Assistant Deputy Director, Marketing to the above titled position has been approved effective May 21, 2007.

PROGRAM DIRECTOR, INMATE DENTAL SERVICES PROGRAM

The Department of Corrections and Rehabilitation's proposal to allocate the above position to the CEA category has been approved effective May 29, 2007.

EXECUTIVE PROJECT DIRECTOR, HR MODERNIZATION PROJECT

The Department of Personnel Administration's proposal to allocate the above position to the CEA category has been approved effective May 29, 2007.

DEPUTY PROJECT DIRECTOR, CLASSIFICATION AND COMPENSATION

The Department of Personnel Administration's proposal to allocate the above position to the CEA category has been approved effective May 29, 2007.

DEPUTY PROJECT DIRECTOR, SYSTEM AUTOMATION, HR MODERNIZATION PROJECT

The Department of Personnel Administration's proposal to allocate the above position to the CEA category has been approved effective May 29, 2007.

DEPUTY PROJECT DIRECTOR, RECRUITMENT AND SELECTION, HR MODERNIZATION PROJECT

The Department of Personnel Administration's proposal to allocate the above position to the CEA category has been approved effective May 29, 2007.

SPECIAL ADVISOR, POLICY AND PROGRAMS

The Office of the Inspector General's proposal to allocate the above position to the CEA category has been approved effective May 31, 2007.

CHIEF, SYSTEMS OF HEALTH SERVICES, DEPARTMENT OF HEALTH SERVICES

The Department of Health Service's proposal to allocate the above position to the CEA category has been approved effective June 13, 2007.

CHIEF, FISCAL INTERMEDIARY AND CONTRACTS OVERSIGHT DIVISION, DEPARTMENT OF HEALTH SERVICES

The Department of Health Service's proposal to allocate the above position to the CEA category has been approved effective June 13, 2007.

**DEPUTY DIRECTOR, CENTER FOR ENVIRONMENTAL HEALTH
DEPUTY DIRECTOR, CENTER FOR INFECTIOUS DISEASE
DEPUTY DIRECTOR, CENTER FOR CHRONIC DISEASE
PREVENTION AND HEALTH PROMOTION, DEPARTMENT OF PUBLIC HEALTH**

The department of Public Health's proposal to allocate the above positions to the CEA category has been approved effective June 13, 2007.

ACTION: NOTED

26. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

27. WRITTEN STAFF REPORT FOR BOARD INFORMATION

NONE PRESENTED

28. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

NONE PRESENTED

29. BOARD ACTIONS ON SUBMITTED ITEMS

ACTION: See Minutes on Pages 28–29

A D J O U R N M E N T

**WHAT FOLLOWS IS A RECORD OF ACTION TAKEN ON AGENDA ITEMS 20 – 22
AS NOTED.**

20. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting.

On July 10, 2007, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey, Costigan – Aye

(1) CASE NO. 06-0235A

Appeal from dismissal

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

Proposed decision rejected January 9, 2007.

Oral argument heard June 5, 2007, Sacramento.

Case ready for decision by FULL Board.

ACTION: The Board issued a decision modifying the dismissal for 18 months. Member Costigan dissented.

(2) CASE NO. 05-2888PA

Appeal from dismissal

Classification: Staff Services Analyst (General)

Department: Department of Consumer Affairs

Petition for rehearing granted October 31, 2006.

Oral argument heard June 5, 2007, Sacramento.

Case ready for decision by FULL Board.

NO ACTION

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(3) CASE NO. 05-0929PA

Appeal from rejection during probation

Classification: Health Program Manager I

Department: Department of Health Services

Petition for Rehearing granted February 20, 2007.

Oral argument heard May 8, 2007.

Case ready for decision by FULL Board.

ACTION: The Board issued a precedential decision revoking the rejection during probation.

(4) CASE NO. 05-1067A

Appeal from dismissal

Classification: Investigator

Department: Department of Motor Vehicles

Proposed decision rejected January 9, 2007.

Oral argument heard May 8, 2007.

Case ready for decision by FULL Board.

NO ACTION

(5) CASE NO. 04-2919ERPA

Appeal from discrimination and retaliation

Classification: Physician and Surgeon

Department: Department of Corrections and Rehabilitation

Petition for Rehearing granted February 20, 2007.

Oral argument heard May 8, 2007.

Case ready for decision by FULL Board.

NO ACTION

(6) CASE NO. 05-0927BA

Appeal for back salary determination

Classification: Correctional Sergeant

Department: Department of Corrections and Rehabilitation

Proposed decision rejected December 5, 2006.

Oral argument heard April 3, 2007.

Case ready for decision by FULL Board.

ACTION: The board issued a decision denying the appellant back pay.

B. CASES PENDING

ORAL ARGUMENTS

These cases were on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

On July 10, 2007, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey, Costigan – Aye

(1) CASE NO. 05-4007EA

Appeal from denial of discrimination complaint

Classification: Outside contractor

Department: Department of Transportation

ACTION: SUBMITTED

(2) CASE NO. 06-0760A

Appeal from rejection during probation

Classification: Parole Agent I (Adult Parole)

Department: Department of Corrections and Rehabilitation

ACTION: SUBMITTED

C. CHIEF COUNSEL RESOLUTIONS

On July 10, 2007, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey, Costigan – Aye

(1) CASE NO. 05-3741

Appeal from dismissal

Classification: Medical Technical Assistant, CF

Department: Department of Corrections and Rehabilitation

Request for Order to Show Cause against Department of Corrections and Rehabilitation

ACTION: The Board issued a resolution denying the order to show cause.

(2) CASE NO. 06-1760

Appeal from reduction in salary

Classification: Associate Governmental Program Analyst

Department: Department of Motor Vehicles

Request by DMV to Rescind Settlement Agreement

ACTION: The Board issued a resolution to assign the case to a hearing before an administrative law judge.

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- (3) **CASE NO. 06-4736**
Appeal from suspension 6 days or more
Classification: Lifeguard
Department: Department of Parks and Recreation
Request for Order to Show Cause against Department of Parks and Recreation
ACTION: The Board issued a resolution denying the request for enforcement of settlement agreement and ordered a name-clearing upon request of appellant.
- (4) **CASE NO. 03-0709**
Appeal from dismissal
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Request for Order to Show Cause
ACTION: The Board issued a resolution granting request for order to show cause.
- (5) **CASE NO. 05-0159**
Appeal from suspension 6 days or more
Classification: Adult Parole Agent I
Department: Department of Corrections and Rehabilitation
Request for Order to Show Cause against Department of Corrections and Rehabilitation
ACTION: The Board issued a resolution granting request for order to show cause.

COURT REMANDS

- (6) **CASE NO. 00-0002**
CASE NO. 99-5150
CASE NO. 00-0030
CASE NO. 00-0033
Appeals from suspension
Classification: various classes
Department: Department of Corrections and Rehabilitation
ACTION: The Board issued a resolution denying the request to hold case in abeyance.

STIPULATIONS

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

PROPOSED DECISIONS

These were ALJ proposed decisions submitted to the Board for the first time.

On July 10, 2007, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey, Costigan – Aye

- (1) CASE NO. 06-2169**
Appeal from dismissal
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision
- (2) CASE NO. 06-2043**
Appeal from dismissal
Classification: Correctional Counselor I
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision
- (3) CASE NO. 06-3700**
Appeal from dismissal
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision
- (4) CASE NO. 06-4252**
Appeal from rejection during probation
Classification: Licensing Program Analyst
Department: Department of Social Services
ACTION: The Board adopted the ALJ's Proposed Decision
- (5) CASE NO. 05-3327**
Appeal from dismissal
Classification: Medical Technical Assistant
Department: Department of Corrections and Rehabilitation
ACTION: The Board rejected the ALJ's Proposed Decision
- (6) CASE NO. 06-1982**
Appeal from ten percent reduction in salary for twelve months
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision

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- (7) **CASE NO. 07-0065**
Appeal from 15 workdays suspension
Classification: Officer
Department: Department of California Highway Patrol
ACTION: The Board adopted the ALJ's Proposed Decision
- (8) **CASE NO. 07-0798**
Appeal from formal reprimand
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision
- (9) **CASE NO. 06-4373**
Appeal from 10 percent reduction in salary for 12 months
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision
- (10) **CASE NO. 06-3720**
Appeal from ten percent reduction in salary for six months
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision
- (11) **CASE NO. 06-3829**
Appeal from ten percent reduction in salary for six months
Classification: Manager I
Department: Department of Motor Vehicles
ACTION: The Board adopted the ALJ's Proposed Decision

PROPOSED DECISIONS TAKEN UNDER SUBMISSION AT PRIOR MEETING

NONE

PROPOSED DECISIONS AFTER BOARD REMAND

- (12) **CASE NO. 05-4268R**
Appeal from dismissal
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision

PROPOSED DECISIONS AFTER SPB ARBITRATION

NONE

E. PETITIONS FOR REHEARING

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

The Board voted to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

On July 10, 2007, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey, Costigan – Aye

(1) CASE NO. 06-0288EP

Appeal from whistleblower retaliation complaint

Classification: Chief Physician and Surgeon (Correctional Facility)

Department: Department of Corrections and Rehabilitation

ACTION: Petition for rehearing denied.

(2) CASE NO. 06-3014P

Appeal from punitive transfer

Classification: Correctional Sergeant

Department: Department of Corrections and Rehabilitation

ACTION: Petition for rehearing granted.

(3) CASE NO. 06-2055P

Appeal from dismissal

Classification: Parole Agent II (Specialist)

Department: Department of Corrections and Rehabilitation

ACTION: Petition for rehearing denied.

(4) CASE NO. 06-0749P

Appeal from rejection during probation

Classification: Environmental Planner (Natural Sciences)

Department: Department of Transportation

ACTION: Petition for rehearing denied.

WHISTLEBLOWER NOTICE OF FINDINGS

NONE

July 10, 2007

F. PENDING BOARD REVIEW

These cases were pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

On July 10, 2007, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey, Costigan – Aye

(1) CASE NO. 05-4007EA

Appeal from denial of discrimination complaint

Classification: Outside contractor

Department: Department of Transportation

Proposed decision rejected December 19, 2006.

Oral argument heard July 10, 2007.

ACTION: SUBMITTED

(2) CASE NO. 03-3412A

Appeal from rejection during probation

Classification: Correctional Counselor II (Supervisor)

Department: Department of Corrections and Rehabilitation

Petition for rehearing granted April 3, 2007.

Oral argument originally set July 10-11, 2007, Sacramento.

Continued to September 4-5, 2007, Sacramento.

NO ACTION

(3) CASE NO. 06-3534A

Appeal from constructive medical termination

Classification: Psychiatric Technician Assistant

Department: Department of Developmental Services

Proposed decision rejected June 19, 2007.

Pending transcript.

ACTION: The Board rejected the ALJ's proposed decision asking the parties to brief certain issues.

(4) CASE NO. 06-0760A

Appeal from rejection during probation

Classification: Parole Agent I (Adult Parole)

Department: Department of Corrections and Rehabilitation

Proposed decision rejected November 14, 2006.

Oral argument heard July 10, 2007.

ACTION: SUBMITTED

- (5) **CASE NO. 06-3023A**
Appeal from ten percent reduction in salary for three months
Classification: Psychiatric Technician
Department: Department of Corrections and Rehabilitation

Proposed decision rejected March 2, 2007.
Pending oral argument August 7-8, 2007, Los Angeles.

NO ACTION
- (6) **CASE NO. 05-1285A**
Appeal from dismissal
Classification: Public Safety Dispatcher II
Department: Department of California Highway Patrol

Proposed decision rejected January 9, 2007.
Oral argument originally set June 5, 2007, Sacramento.
Oral argument continued.

NO ACTION
- (7) **CASE NO. 06-1338A**
Appeal from rejection during probation
Classification: Industrial Relations Counsel III (Specialist)
Department: Department of Industrial Relations

Proposed decision rejected May 8, 2007.
Pending oral argument August 7-8, 2007, Los Angeles.

NO ACTION
- (8) **CASE NO. 05-1432E**
Appeal from denial of sexual harassment complaint
Classification: Health Facilities Evaluator Nurse
Department: Department of Health Services

Proposed decision rejected June 5, 2007.
Pending transcript.

NO ACTION
- (9) **CASE NO. 06-1732**
Appeal from dismissal
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation

Proposed decision taken under submission June 19, 2007.

NO ACTION

July 10, 2007

- (10) **CASE NO. 06-0738A**
Appeal from dismissal
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation

Proposed decision rejected May 18, 2007.
Pending oral argument September 4-5, 2007, Sacramento.

NO ACTION
- (11) **CASE NO. 06-2010A**
Appeal from medical termination
Classification: Administrative Support Coordinator II
Department: California State University, Los Angeles

Proposed decision rejected May 8, 2007.
Pending oral argument August 7-8, 2007, Los Angeles.

NO ACTION
- (12) **CASE NO. 07-1381A**
Appeal from dismissal
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation

Proposed decision rejected June 5, 2007.
Pending transcript.

NO ACTION
- (13) **CASE NO. 05-1043P**
Appeal from dismissal
Classification: Tax Counsel, Range D
Department: Board of Equalization

Petition for rehearing granted June 5, 2007.
Pending transcript.

NO ACTION
- (14) **PSC NO. 06-03, CASE NO. 07-0806PA**
Appeal from Executive Officer's disapproval of Unarmed Security
Guard Services
Department: California Highway Patrol

Petition for rehearing granted May 8, 2007.
Pending oral argument September 4-5, 2007, Sacramento.

NO ACTION

24. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases were heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board was presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

WITHHOLD FROM CERTIFICATION
CASES HEARD BY A STAFF HEARING OFFICER

NONE

WITHHOLD FROM CERTIFICATION
CASES NOT HEARD BY A STAFF HEARING OFFICER

On July 10, 2007, the Board adopted, as indicated below, the following items as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey, Costigan – Aye

- (1) CASE NO. 06-0611N**
Classification: Correctional Officer
Department: California Department of Corrections & Rehabilitation
Issue: Suitability; failure to supply the requested documentation and information.
ACTION: DENIED
- (2) CASE NO. 06-0917N**
Classification: Correctional Officer
Department: California Department of Corrections & Rehabilitation
Issue: Suitability; illegal drug activity.
ACTION: DENIED
- (3) CASE NO. 06-2077N**
Classification: Correctional Officer
Department: California Department of Corrections & Rehabilitation
Issue: Suitability; omitted pertinent information during the selection process and a negative military record.
ACTION: DENIED

- (4) **CASE NO. 06-2153N**
Classification: Medical Technical Assistant, Correctional Facility
Department: California Department of Corrections & Rehabilitation
Issue: Suitability; negative law enforcement contacts, arrest/conviction record, omitted pertinent information.
ACTION: DENIED
- (5) **CASE NO.06-1295N**
Classification: Correctional Officer
Department: California Department of Corrections & Rehabilitation
Issue: Suitability; a negative driving record.
ACTION: DENIED
- (6) **CASE NO. 06-1362N**
Classification: Correctional Officer
Department: California Department of Corrections & Rehabilitation
Issue: Suitability; omitted pertinent information.
ACTION: DENIED
- **CASE NO. 06-2837N**
Classification: Correctional Officer
Department: California Department of Corrections & Rehabilitation
ACTION: DISMISSED

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases were heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board was presented recommendations by a Hearing Panel on each appeal.

- **CASE NO. 06-3838N**
Classification: Correctional Officer
Department: California Department of Corrections & Rehabilitation
ACTION: DISMISSED
- **CASE NO. 06-4529N**
Classification: Correctional Officer
Department: California Department of Corrections & Rehabilitation
ACTION: DISMISSED

**C. EXAMINATION APPEALS
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS**

NONE

**D. RULE 211 APPEALS
RULE 212 OUT OF CLASS APPEALS
VOIDED APPOINTMENT APPEALS**

Cases were heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board was presented recommendations by a Staff Hearing Officer for final decision on each appeal.

On July 10, 2007, the Board adopted, as indicated below, the following items as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey, Costigan – Aye

(1) CASE NO. 06-2260N

Department: California Department of Health Services

Issue: Was the appointment of the appellant properly voided based on the fact that the appellant did not have eligibility to the Staff Services Manager II classification.

ACTION: The Board issued an equity resolution for this case.

• CASE NO. 06-3341N

Department: California Department of Corrections & Rehabilitation

Classification: Correctional Officer

ACTION: DISMISSED

E. REQUEST TO FILE CHARGES CASES

Investigated by Appeals Division staff. The Board was presented recommendations by Appeals Division staff for final decision on each request.

On July 10, 2007, the Board adopted, as indicated below, the following items as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Clarey, Costigan – Aye

(1) CASE NO. 06-1721N

Classification: N/A – A member of the public.

Department: California Department of Corrections & Rehabilitation

Issue: The charging party request charges be filed against the charged party for violations of various subsections of Government Code § 19572.

ACTION: DENIED

PETITIONS FOR REHEARING CASES

(2) MULTIPLE CASE NOS.

Classification: Environmental Scientist

Department: State Water Resources Control Board

Issue: Whether allowing appellants into the ES examination diminishes the scientific requirements of the class.

ACTION: DENIED

• **CASE NO. 05-3078**

Classification: Deputy Attorney III

Department: California Department of Transportation

ACTION: DISMISSED

July 10, 2007

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

NO ACTION

2. VOCATIONAL INSTRUCTOR (SAFETY) (VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

NO ACTION

3. TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

NO ACTION

4. HEARING – Personal Services Contract #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

NO ACTION

5. HEARING

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures.

(Hearing held July 7, 2004.)

NO ACTION

6. CASE NO. 05-3741

Appeal from dismissal. Medical Technical Assistant, CF. Department of Corrections and Rehabilitation. Request for Order to Show Cause against Department of Corrections and Rehabilitation. (Presented to the Board March 2, 2007.)

ACTION: The Board issued a resolution denying the order to show cause.

7. CASE NO. 05-0927BA

Appeal for back salary determination. Correctional Sergeant. Department of Corrections and Rehabilitation. (Oral argument held April 3, 2007.)

ACTION: The board issued a decision denying the appellant back pay.

8. CASE NO. 05-0929PA

Appeal from rejection during probation. Health Program Manager I. Department of Health Services. (Oral argument held May 8, 2007.)

ACTION: The Board issued a precedential decision revoking the rejection during probation.

9. CASE NO. 05-1067A

Appeal from dismissal. Investigator, DMV. Department of Motor Vehicles. (Oral argument held May 8, 2007.)

NO ACTION

10. CASE NO. 04-2919ERPA

Appeal from discrimination and retaliation. Physician & Surgeon, CF. Department of Corrections and Rehabilitation. (Oral argument held May 8, 2007.)

NO ACTION

11. HEARING – GOVERNMENTAL PROGRAM ANALYST

The State Personnel Board in consultation with the Department of Personnel Administration proposes the establishment of the new classification of Governmental Program Analyst (GPA). (Hearing held May 8, 2007.)

ACTION: The Board adopted the proposal to revise the Staff Services Analyst class as an alternative to establishing the GPA class.

12. CASE NO. 06-0235A

Appeal from dismissal. Correctional Officer. Department of Corrections and Rehabilitation. (Oral argument held June 5, 2007.)

ACTION: The Board issued a decision modifying the dismissal for 18 months. Member Costigan dissented.

13. CASE NO. 05-2888PA

Appeal from dismissal. Staff Services Analyst (General). Department of Consumer Affairs. (Oral argument held June 5, 2007.)

NO ACTION

14. CASE NO. 05-4007EA

Appeal from denial of discrimination complaint. Outside contractor. Department of Transportation. (Oral argument held July 10, 2007.)

NO ACTION

15. CASE NO. 06-0760A

Appeal from rejection during probation. Parole Agent I (Adult Parole). Department of Corrections and Rehabilitation. (Oral argument held July 10, 2007.)

NO ACTION

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

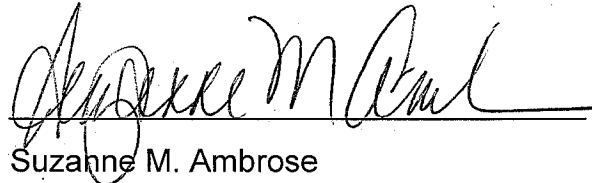
WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting held on August 7, 2007.

VOTE: Harrigan, Sheehan, Tom, Clarey, Costigan – Aye

A handwritten signature in cursive script, appearing to read "Suzanne M. Ambrose", written over a horizontal line.

Suzanne M. Ambrose
Executive Officer
California State Personnel Board